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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,938	06/27/2003	Jeffrey D. Carnevali	NPI-017	1343

7590 04/07/2005
Charles J. Rupnick
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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,938

Applicant(s)

CARNEVALI, JEFFREY D.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14, 16, 17 and 19-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-14, 16, 17 and 20-28 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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This is the second Office Action for application serial number 10/607,938, Universal Mobile Electron Device Holder and Carrying Case filed June 27, 2003.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-14, 16, 17, and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Des 369,526 to Colton in view of U.S. Patent No. 6,644,524 to Garvin. Colton teaches a combined holding and carrying apparatus for a device. The apparatus a cup-shaped body open at a first end and closed at a second opposing end. One exterior wall surface is provided with an integral attachment structure. An integral lip structure forms a contiguous with the cup-shaped body at the first open end. A pair of opposing recesses formed in the cup-shaped body and contiguous lip structure. However, Colton fails to teach a plurality of resilient pliable members, a rectangular tube shape and a pair of spaced apart fastener apertures.

Garvin teaches an apparatus comprises an open pocket (near 110) formed of a resiliently pliable material and has an exterior attachment interface (100). An interior surface of the pocket has one or more inwardly projecting resiliently pliable members (130). Opposite the opening pocket is a closure. The pliable members are solid ribs projecting inwardly of the pocket from one or more interior wall surfaces. The exterior attachment structure comprises a pair of spaced apart apertures or bosses (162, 152). It would have been obvious to one having ordinary skill in

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the art at the time the invention was made to have modified the interior and the exterior of the apparatus to have incorporated the plurality of ribs along the interior of the apparatus and a pair of spaced apart fastener apertures positioned in the one exterior wall surface for stabilizing a container to be placed therein and securing the apparatus to an exterior support.

Regarding claims 12, 17 and 24, it would have been an obvious matter of design choice to have made the body rectangular shaped, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Colton in view of Garvin, and in further view of Bergin 5,709,429. Colton in view of Garvin teaches the limitations of the base claim, excluding a pair of spaced-apart bosses.

Bergin teaches a holding and carrying apparatus having a cup-shaped body and a pair of spaced apart bosses. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apertures as taught by Colton in view of Garvin to have incorporated the bosses of Bergin for securing the screws to the device without the need for nuts.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Des 369,526 to Colton in view of U.S. Patent No. 6,644,524 to Garvin. Colton in view Garvin fails to teach a plurality of cilia or conical shaped knobs reliantly pliable members. It would have been an obvious matter of design choice to have made the pliable members cilia or conical knob shaped, since such a modification would have involved a mere change in the shape of a

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component. A change in shape is generally recognized as being within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Allowable Subject Matter

Claims 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

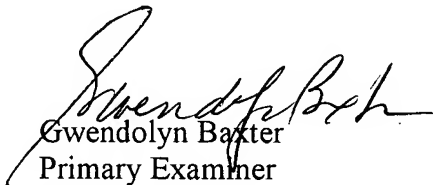
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gwendolyn Baxter
Primary Examiner
Art Unit 3632

April 4, 2005